

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	NO: WA:19-CR-00259(5)-ADA
	§	
(5) ERIK ENRIQUE HERNANDEZ	§	

ORDER ACCEPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Before the court is the above styled and numbered cause. On June 23, 2024 the United States Probation Office filed a Petition For Warrant or Summons For Offender Under Supervision for Defendant (5) ERIK ENRIQUE HERNANDEZ, which alleged that Hernandez violated a condition of his supervised release and recommended that Hernandez 's supervised release be revoked (Clerk's Document No. 333). A warrant issued and Hernandez was arrested. On April 5, 2024, Hernandez appeared before a United States Magistrate Judge, was ordered detained, and a revocation of supervised release hearing was set.

Hernandez appeared before the magistrate judge on June 4, 2024, waived his right to a preliminary hearing and to be present before the United States District Judge at the time of modification of sentence, and consented to allocution before the magistrate judge. Following the hearing, the magistrate judge signed his report and recommendation on June 4, 2024, which provides that having carefully considered all of the arguments and evidence presented by the Government and Defendant, based on the original offense and

the intervening conduct of Hernandez, the magistrate judge recommends that this court revoke Hernandez supervised release and that Hernandez be sentenced to imprisonment for SIX (6) months, with no term supervised release to follow the term of imprisonment (Clerk's Document No. 345). The defendant should receive sixty days of credit for time served.

A party may serve and file specific, written objections to the proposed findings and recommendations of a magistrate judge within fourteen days after being served with a copy of the report and recommendation, and thereby secure a *de novo* review by the district court. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en bane*). The parties in this cause were properly notified of the consequences of a failure to file objections.


On June 4, 2024, following the hearing on the motion to revoke supervised release, all parties signed a Waiver Of Fourteen Day Rule For Filing Objections To Report and Recommendation Of United States Magistrate Judge (Clerk's Document No. 343). The court, having reviewed the entire record and finding no plain error, accepts and adopts the report and recommendation filed in this cause.

IT IS THEREFORE ORDERED that the Report and Recommendation of the United States Magistrate Judge filed in this cause (Clerk's Document No. 345) is hereby ACCEPTED AND ADOPTED by this court.

IT IS FURTHER ORDERED that Defendant (5) ERIK ENRIQUE HERNANDEZ's term of supervised release is hereby REVOKED.

IT IS FURTHER ORDERED that Defendant (5) ERIK ENRIQUE HERNANDEZ be imprisoned for SIX (6) months with no term of supervised release. The defendant shall receive sixty days of credit for time served.

Signed this 5th day of June, 2024.


ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE